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COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 33rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 19 February 1992, at 10 a.m.

Chairman: Mr. SOLT (Hungary)

later: Mr. ENNACEUR (Tunisia)

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The meeting was called to order at 10.25 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

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(agenda item 12) (E/CN.4/1992/3, 4, 25, 26, 27 and Corr.1, 28 and Add.1, 29, 30, 32, 34-37, 60, 64 and 67; E/CN.4/1992/NGO/2, 5, 10, 13, 19 and 24; E/CN.4/1991/24, 27-31, 33 and Add.1, and 34-36; A/46/446, 529, 542, 544 and Corr.1, 606 and 647)

1. The CHAIRMAN said that the Commission had considered agenda item 12 (c) in closed meetings. In accordance with Economic and Social Council resolution 1503 (XLVIII), it had examined the human rights situations in Bahrain, Chad, Somalia, Sudan, the Syrian Arab Republic and Zaire and had decided to defer consideration of the human rights situation in Myanmar to a later date. It had decided to end its consideration under the confidential procedure of the human rights situation in the Syrian Arab Republic.

2. In conformity with paragraph 8 of Economic and Social Council resolution 1503 (XLVIII), members of the Commission should not refer in public meetings to the confidential decisions which had been taken or to related confidential documentation.

3. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing subitems (a) and (b) of agenda item 12, said that, under that item, the Commission traditionally carried out a global evaluation of the question of the violation of human rights and fundamental freedoms. That was an essential element of its work which complemented the debates on action to promote greater respect for human rights.

4. Over the years, the Commission had gradually developed a set of mechanisms to monitor respect for human rights and to investigate allegations concerning abuses of the rights enshrined in the Universal Declaration of Human Rights. Special procedures that were sufficiently flexible to adapt to each particular situation had been established to complement in a concrete and effective way the actions of the various human rights treaty bodies. In addition, special representatives or rapporteurs had been appointed by the Commission to report on the situation in particular countries or on particular themes. The Commission thus had before it a number of reports regarding country situations which had been prepared by special rapporteurs or special representatives.

5. In the course of preparing his report (E/CN.4/1991/33), the Commission's Special Rapporteur on the situation of human rights in Afghanistan, had visited Pakistan and Afghanistan on two occasions and had held talks with high officials in Islamabad and Kabul. He had also visited prisons, hospitals and refugee camps, met representatives of various organizations and private persons, and travelled to areas controlled by opposition forces.

6. At its previous session, the Commission had requested the Secretary-General to appoint a special representative to maintain direct contact with the Government and citizens of Cuba on issues and questions contained in the report of the mission which had taken place to that country. The report of the Special Representative (E/CN.4/1991/27) was before the Commission.

7. The report of the Commission's Special Representative on the situation of human rights in El Salvador (E/CN.4/1991/34) was also before the Commission. The Special Representative had visited El Salvador from 21 to 29 September 1991, where he had had interviews with leading authorities, including the President of the Republic, the President of the Supreme Court and several ministers. He had also interviewed numerous witnesses and received extensive information from non-governmental organizations and from peasant and trade-union movements. In addition, he had visited prisons and interviewed representatives of the FMLN outside the country. The Special Representative had also held a coordination meeting with the Director of the Human Rights Division of the United Nations El Salvador Verification Mission (ONUSAL).

8. The Special Rapporteur on the situation of human rights in Iraq, who had been appointed by the Commission at its forty-seventh session, had exchanged correspondence with the Government of Iraq concerning a wide variety of issues relating to human rights in that country. He had presented the results of those written exchanges to the forty-sixth session of the General Assembly in an interim report (A/46/647). In January 1992, the Special Rapporteur had visited Iraq and had met several ministers of Government to discuss allegations of violations that had come to his attention. While there, he had surveyed conditions in the south and the north of the country and had met the Grand Ayatollah Al-Khoie in Najaf and Kurdish leaders in the north. Testimony had also been received from individuals and representatives of non-governmental organizations, including newly formed human rights organizations in Kurdish areas. Before leaving Iraq, the Special Rapporteur had visited the Abu Ghraib prison complex, where he had spoken to prison administrators and several prisoners. In addition, he had visited four refugee camps in the Islamic Republic of Iran and two such camps in the Kingdom of Saudi Arabia.

9. The report of the Special Representative of the Commission on the situation of human rights in the Islamic Republic of Iran (E/CN.4/1991/34 and Add.1) contained information on his visit to the Islamic Republic of Iran in 1991 during which he had met leading personalities of the Government and had visited the prisons of Evin and Gohardasht. He had also interviewed witnesses and private individuals and had held meetings with non-governmental organizations and with representatives of the United Nations High Commissioner for Refugees in Tehran.

10. In its debate on the current item, the Commission also had before it the report of its Special Rapporteur on the situation of human rights in occupied Kuwait (E/CN.4/1992/26). That report marked the first time that the Commission had created a mandate to examine human rights questions during a period of international armed conflict in which the territory of a State had been invaded and occupied. The Special Rapporteur had undertaken two visits

to Kuwait in June and September 1991 during which he had met senior government authorities and had interviewed persons concerning violations of human rights committed by Iraqi occupying forces.

11. The Commission's Special Rapporteur on the situation of human rights in Romania had visited that country in November 1991 and had met several high government officials and leaders of political parties and groups, members of the clergy, representatives of non-governmental organizations and representatives of all segments of society. In addition to Bucharest, he had visited Timisoara and the district of Suceava. During his visits to police stations and prisons, he had been able to speak privately to a number of detainees.

12. One of the main thematic mandates created by the Commission concerned summary or arbitary executions. The report of the Special Rapporteur on summary or arbitary executions (E/CN.4/1992/30 and Add.1) reflected the ever-growing number of communications received and reviewed during the 10 years of his mandate. In his review, the Special Rapporteur outlined the scope and evolution of his mandate, the number and type of cases reported to him and the working methods that had been developed over the decade. In an addendum to his main report, the Special Rapporteur gave an account of his visit to Zaire in May 1991.

13. In his note on alleged reprisals against witnesses or victims of human rights violations (E/CN.4/1992/29), submitted pursuant to a request by the Commission, the Secretary-General included a summary of the information received from various individuals and non-governmental organizations on intimidation or reprisals against persons or organizations that cooperated with the United Nations human rights bodies or tried to avail themselves of the Organization's mechanisms or procedures. The note also included a description of the action taken by such bodies in compliance with the request made to them by the Commission and contained, further, the replies received from Governments concerning cases transmitted to them.

14. In addition to those reports, the Commission had before it reports and documents dealing with the question of human rights in Cyprus, Albania, southern Lebanon, and Tibet.

15. The information in the reports of the special rapporteurs and those prepared by the Secretary-General, taken together with the information supplied by governmental and non-governmental organizations, presented a unique global view of human rights problems. In view of its ample experience in that domain, the Commission should therefore consider how it could make better use of such information to help put an end to violations and prevent new situations of violations from developing. He was confident that the meeting of the Bureau, that was to be held after the session of the Commission, would, when considering proposals for streamlining the Commission's agenda, also consider ways in which United Nations bodies might act in a more coherent manner to prevent or end violations.

16. For many millions of people throughout the world, the debate that was about to begin was a crucial opportunity to protect their lives and physical

integrity. Members of the Commission should therefore always keep in mind the victims and remember that the establishment of a new system of international relations should begin with effective responses to their appeals.

17. Mr. Ennaceur (Tunisia), took the Chair.

18. The CHAIRMAN invited the Commission's Special Rapporteur on summary or arbitrary executions to introduce his report.

19. Mr. WAKO (Special Rapporteur on summary or arbitrary executions), introducing his tenth report (E/CN.4/1992/30), said that summary or arbitrary executions occurred in nearly all parts of the world and affected all classes of people, without exception. A factor common to such executions was the opposition, or perceived opposition, of the victims to those who wielded political or economic power in the State on Government, or to certain aspects of their political and economic policies.

20. In his first report to the Commission, he had recommended that the international community should launch a worldwide educational campaign to mobilize world opinion against summary or arbitrary executions. The campaign should be aimed at all segments of society, but particularly the police, the military, the judiciary and the executive and legislative branches. Those recommendations were still valid in 1992.

21. The phenomenon of summary or arbitrary executions was most prevalent in areas affected by internal disturbances and political tensions or where there were gross violations of other human rights. Indeed, the violation of other human rights was a warning signal that summary or arbitrary executions - the violation of the most basic of all rights, the right to life - were going to occur if the situations were not remedied in time. The enhancement of the democratic system, the strengthening of the rule of law, a greater understanding and respect for the right to life, particularly among law enforcement agencies and those who used weapons in their activities, would go far towards eliminating the phenomenon of arbitrary or summary execution.

22. There was also an urgent need to deal with the underlying causes which led to tension in any society. Such causes included ethnic or religious strife, conflicts arising out of unjust economic and social systems, and conflicts resulting from the tyranny of the majority over the minority. Those causes could be most effectively and peacefully addressed in an environment that resulted from a more just national and international economic and social system.

23. His mandate had helped to focus the attention of the international community on the phenomenon of summary or arbitrary executions. Between 1984 and 1992, the number of Governments to which letters containing allegations had been sent had increased from 10 to 49, while the number of countries to which urgent appeals had been sent had grown from 9 to 44. The number of Governments that had responded had also increased. Since completing his 1992 report, he had received replies from the Governments of Bhutan, Brazil, Cuba, El Salvador, Myanmar, Nicaragua, Trinidad and Tobago, Venezuela and Yugoslavia. At the same time, however, the number and type of cases reported had continued to increase, particularly over the previous two years.

24. In reviewing the first decade of his activities, he wished to stress the importance of missions to countries, which permitted an in-situ examination of a situation. Missions constituted the most effective method available to the Special Rapporteur for evaluating the veracity of allegations received and for arriving at a proper understanding of the social, legal, political and economic context in which executions occurred in any given country. He had thus been encouraged by the invitations received from the Governments of Colombia, Peru, Sri Lanka, Suriname, Uganda, and Zaire to visit those countries.

25. In 1991, he had undertaken a mission to Zaire. One of the more important points raised in his report on that mission (E/CN.4/1992/30/Add.1) was the need to establish and maintain a dialogue between the Commission's Special Rapporteur and the Government of Zaire on those issues which touched upon the inherent right to life of every human being and the obligation of the Government to ensure that that right was accorded full protection. It was his belief that the Government of Zaire would continue to remain open to such a discussion and that the results would be reflected in the report of the Special Rapporteur to the next session of the Commission.

26. He had worked closely with the Ad Hoc Working Group of Experts on southern Africa, the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs and the Committee on Crime Prevention and Control on the elaboration of the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in its resolution 1989/65, and with the office of the Secretary-General, especially when he had been asked to provide good offices. Similarly, he had used the general comments of the Human Rights Committee as a guide to the interpretation of international standards concerning summary and arbitrary executions. He had also attempted to support the work of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross.

27. He drew the Commission's attention to the recommendations in the report that he had addressed specifically to Governments, the international community and the Centre for Human Rights. He expressed his appreciation to the Centre's staff, without whose dedication it would have been impossible to compile the various reports. His own rapidly growing mandate and the increase in other work had stretched staff resources to the limit, and he appealed to the United Nations to increase both the material and the human resources of the Centre.

28. In view of his appointment in May 1991 as Attorney-General of the Republic of Kenya, he would not be able to continue effectively to discharge his duties as Special Rapporteur and he therefore intended to resign his post at the end of the Commission's current session. He would continue to support the work of the United Nations in the field of human rights wherever he could. Human rights work could and must be carried out whether a person was in government, in an intergovernmental organization, or in a non-governmental organization or just a private citizen.

29. THE CHAIRMAN, speaking on behalf of the Commission, paid tribute to Mr. Wako's dedicated work as Special Rapporteur on summary or arbitrary executions.

30. Mr. Solt (Hungary) resumed the Chair.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF COSTA RICA

31. The CHAIRMAN welcomed the Minister for Foreign Affairs of Costa Rica and invited him to address the Commission.

32. Mr. NIEHAUS (Costa Rica) said that respect for human life, justice, security and liberty for all was a prerequisite for international peace. The international community must continue along the path towards a universalization of human rights, without which there could be no new world order.

33. In the view of the Governments of Central America, the Esquipulas process had enabled real progress to be made in the search for peace and democracy in that part of the world. Within the framework of the agreements, the Governments had reaffirmed the decision to work towards lasting peace in Central America by consolidating the rule of law, strengthening democratic institutions and respect for human rights and reconciling the various segments of society through an open and constructive dialogue. Most recently, the presidents of the countries of the region had met at Tegucigalpa, Honduras, to give fresh impetus to the system of regional integration. His Government was convinced that the international community would support those efforts and help the peoples of Central America in their quest for liberty and democracy.

34. The last few weeks had seen some historic events in Central America. The peace agreement signed in El Salvador between the democratic Government of President Cristiani and the Frente Farabundo Martí para la Liberación Nacional had put an end to a bloody armed conflict that had cost more than 70,000 lives. His own Government congratulated President Cristiani on his policy of dialogue and his search for a political solution to the conflict. It urged the international community, particularly those countries that had worked to make the Chapultepec peace agreement possible, to provide unconditional support to the Government of El Salvador in its efforts to achieve peace, respect for all human rights and the economic and social reconstruction of the country.

35. His Government also supported the peace plan of President Serrano of Guatemala. Despite the enormous difficulties facing the people of that country, the current democratic Government was making great efforts to bring about a reconciliation of Guatemalan society through the peaceful reintegration of the irregular forces into civil and political life. More than ever before, the Government of Guatemala needed the advisory services of the Centre for Human Rights and the support of the international community in general if it was to continue making progress towards democracy and respect for human rights.

36. Turning to the situation in Haiti, his Government reaffirmed the opinion it had expressed in the Organization of American States: to achieve peace and respect for human rights in that nation, it was essential to restore the civilian Government elected by the people of Haiti in free elections. Given the deterioration in the political, social and economic conditions of that country, the Commission on Human Rights must take forceful measures to help restore democracy and respect for human rights there. In that connection, Costa Rica energetically condemned the politically motivated shootings of civilians. Although the principles of non-intervention and the self-determination of peoples were the basic pillars of international law and peaceful coexistence among States, respect for human rights transcended domestic jurisdiction and constituted an international obligation with legal and political effect for all States.

37. Apart from Haiti and Cuba, democracy prevailed throughout Latin America, but some of the new democratic systems were very fragile and were facing serious economic and social problems. In some Latin American societies, the forces of darkness were still at work, as could be seen from the recent attempt to do away with the democratic Government of Venezuela, an act which had been categorically condemned by the Organization of American States. The forces of democracy must remain vigilant. Respect for human rights was the obligation not only of States, but also of each and every individual.

38. The question of environmental protection was closely linked to the issue of human rights. The right to live in a safe environment, which had taken on increased importance since the Stockholm Declaration, must be included in the standard-setting and institutional structures for human rights protection at the regional and international levels. Although the subject still required considerable development, the existing framework offered sufficiently broad possibilities for ensuring respect for that right. Human rights bodies must give priority to the right to a safe environment in all its aspects.

39. Environmental protection was closely linked to development. For his Government, which had underscored the need to establish a new environmental world order, environmental protection and development must be reconciled if the human species was to survive. His Government had proposed the creation of a council for the Earth, with headquarters in Costa Rica, to follow up the activities of the international community aimed at protecting that basic right. It was to be hoped that the initiative would receive broad support when it was formally submitted to the United Nations Conference on Environment and Development.

40. Turning to the question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which his Government had propsoed to the Commission in 1980, he said that the idea behind such an instrument was that, since torture was practised in secrecy, the best way to combat it was to obtain access to all places of detention so as to verify whether such abuses were taking place. The International Committee of the Red Cross had a system for monitoring the treatment of prisoners of war that had proved very effective in preventing torture, and it had seemed reasonable to create a similar procedure for visiting all persons deprived of their liberty. For a system of visits to

places of detention by an independent international body to be acceptable to Governments, it must be based on a principle of cooperation with States, and it must be confidential.

41. Notwithstanding the existence of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe and the Convention against Torture itself, an optional protocol would not be redundant, as was borne out by the report of the Special Rapporteur on questions relevant to torture (E/CN.4/1991/17). Article 20 of the Convention against Torture did indeed provide for a system of visits, but only when reliable information was received which appeared to contain well-founded indications that torture was being systematically practised. Thus, the Convention allowed for visits after the fact which, though indispensable, was not effective. The draft optional protocol was designed to play a preventive role, in that visits could be made even if there was no suspicion that torture was taking place.

42. Although the prior existence of the European Convention might pose problems, at the same time it showed that a system of visits could work at regional level before being introduced universally. Commission decision 1989/104, in which it was decided to defer until its forty-seventh session consideration of the draft optional protocol, had also provided for the drafting of other regional systems outside the United Nations, but unfortunately it had not been possible to date to produce similar draft instruments for other regions. In any event, the draft optional protocol envisaged the possibility of a universal system of visits coexisting with regional procedures.

43. The draft optional protocol also called for the creation of a sub-committee for the prevention of torture and other inhuman and degrading treatment or punishment. Once 10 member States had ratified the draft optional protocol, the Committee against Torture would establish the sub-committee and elect its members. The purpose of the new body would not be to denounce States but to attempt to strengthen the protection of individuals deprived of their liberty.

44. The sub-committee would not have judicial functions and would not have to decide whether international instruments prohibiting torture had been violated. Its task would be purely preventive and would consist in conducting missions of investigation and, where necessary, formulating recommendations. It would establish a dialogue between the State authorities and the monitoring body based on confidentiality and cooperation. Unlike other international treaty bodies, it would take action before torture or abuse occurred. It was to be hoped that the member States of the Commission and the non-governmental organizations would help to improve the text of the protocol, so that it could be considered by the Commission at its forty-ninth session.

45. Mr. Ennaceur (Tunisia) resumed the Chair.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(agenda item 11) (continued) (E/CN.4/1992/21 and Add.1, 22-24, 43 and Add.1 and 2, 58 and 73; E/CN.4/1991/NGO/1 and 21)

46. Mr. ROA KOURI (Cuba) said that the principal aspects of the "new world order" with regard to human rights were becoming increasingly clear. An attempt was being made to authorize the Security Council, on the pretext of an as yet undefined instability in the field of human rights in any country, to treat such a situation as a threat to international peace and security and thus capable of giving rise to action, including coercive action, by that organ. In that way, the balance of functions established by the Charter among three of the principal organs of the United Nations would be destroyed.

47. The Security Council had primary responsibility for the maintenance of international peace and security, while the General Assembly and Economic and Social Council were responsible for resolving international economic, social, health and related problems, and for ensuring universal respect for human rights and fundamental freedoms for all through international cooperation (Chapter IX of the Charter). Article 24, paragraph 2, of the Charter gave no authority to the Security Council to exercise functions with respect to Chapters IX and X.

48. Another interesting element of that "new world order" had become apparent when the representative of the United States had stated to the Commission that, in future, only those States which came within certain parameters and subscribed to certain conceptions of human rights would be entitled to become members of the Commission. He had omitted to add that the only States which could be elected would be those that had been fortunate enough to receive the vote of the United States in the relevant Economic and Social Council election.

49. If that statement had been merely designed for domestic consumption in an election year, it would not have been of great importance. However, it appeared that such was not the case and that the proposal did indeed constitute an unacceptable attempt to deprive certain Member States of the exercise of their rights and privileges, in flagrant contravention of Article 5 of the Charter whereby only the General Assembly had such power and then only under certain strictly defined conditions.

50. At the same time, references were increasingly being made to "humanitarian intervention", which the international community was asked to accept as a "logical necessity" of the times. It was an expression that

produced the same reaction in his own delegation as terms such as "justified torture" or "legal" disappearances. Whether or not carried out under the cloak of humanitarian concern, intervention remained intervention and, as such, was illegitimate under Article 2 of the Charter.

51. It appeared that the Security Council would be given the power to impose various collective sanctions and even authorize armed intervention to improve the observance of human rights where their violation threatened world stability and security. What all that seemed to imply was the gradual erosion and eventual abolition of three key principles of international law, recognized in the Charter and of particular importance to small countries, namely, the equal rights and self-determination of all peoples, the sovereign equality of all States Members of the United Nations and non-interference in the internal affairs of States. Cuba had fought hard to achieve those rights and was not prepared to abandon any of them.

52. Since the mid-1960s, the international community had been establishing treaty and non-treaty mechanisms in the United Nations system for the promotion, protection and full realization of all human rights and fundamental freedoms. Under the various legal instruments adopted by the United Nations over that period, treaty bodies had been set up which worked, with some financial and practical difficulties, in a clearly established manner, of which all the Member States were perfectly aware.

53. In parallel, the Economic and Social Council and its subsidiary human rights bodies had established procedures to deal with communications received by the Secretary-General from non-governmental sources concerning human rights violations. Despite the initial reservations of many Member States, that confidential procedure had proved its worth over the previous 20 years. Other organizations, including ILO and UNESCO and various regional intergovernmental organizations, had also established treaty bodies dealing with human rights and fundamental freedoms.

54. In addition, special public procedures had been established to examine the human rights situations in specific countries or territories and, since 1980, to consider themes, such as enforced disappearances and torture. The special procedures had been established with a very general mandate and the more detailed aspects of their workings were not always very clear. In addition, the time-scale under which they operated was often limited. The Commission had previously called for the more effective functioning of the treaty mechanisms and his delegation felt that the special procedures also deserved such consideration so that, in the near future, the various aspects of their operation could be fully discussed.

55. To that end, the Secretary-General should provide the Commission at its next session with precise details on key aspects of the original mandates for those procedures and on the conceptual, normative and procedural frameworks in which they functioned. It would be also useful to know the criteria applied by the Centre for Human Rights when deciding on the admissibility of communications containing allegations of human rights violations.

56. The Commission should also urge all those involved in such procedures to conduct themselves with due discretion and independence, guided by the principles of non-selectivity, impartiality and objectivity so as to conform to the humanitarian spirit which should govern their work and to avoid the use of the procedures for political ends. It should also insist that in all cases the standards, criteria and practices established by the United Nations with respect to the handling of communications should be applied.

57. In conclusion, he wished to point out to the delegation of Australia that the principle of non-selectivity was not limited to the declaration that no region was exempt from scrutiny by the United Nations with regard to its specific problems in the field of human rights. That principle meant, in fact, the ethical inadmissibility of applying a special procedure to a Member State whilst refusing to adopt a similar policy in relation to others whose human rights situations were even worse. If the Australian delegation was prepared to cooperate with the Commission, as his own delegation had done in 1988, and receive a mission to examine in situ, difficulties connected with the situation of Australia's Aboriginal population, for instance, his own delegation would sponsor a draft resolution to that effect.

58. Mr. NZEYIMANA (Burundi) said that human rights represented a field of continuing struggle which related not only to civil and political rights, but also to the need to overcome problems of poverty and underdevelopment which were inimical to the enjoyment of those rights.

59. Those who had followed recent developments in his country would be aware of the efforts made by the new Government to restore certain rights and freedoms whose exercise had previously been frustrated. In particular, it had ratified the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights, together with a number of other relevant international instruments. It was also encouraging the establishment of non-governmental organizations for the protection of human rights and the introduction of a policy of voluntary repatriation, settlement and social and vocational readjustment of Burundi refugees abroad.

60. The State Security Court, which had exceptional powers, was to be abolished, and a disciplinary council established to investigate cases of abuse of authority by members of the police force. Training courses on human rights and democratic institutions for officials of the judiciary and the police were being provided and, finally, a revised code of procedure for pre-trial detention was in preparation. The aim of all those initiatives was to create a framework which would promote greater awareness of human rights at the national level, an awareness which was itself fostered by the rapid opening up of political pluralism and the forthcoming adoption, by referendum, of a new Constitution.

61. The new Constitution would make provision, inter alia, for an individual's right of direct access to the Constitutional Court, and would ensure freedom of the press through the establishment of a National Communications Council.

62. In general, considerable progress had been made in Burundi in promoting awareness of human rights, although much remained to be done. The independent

non-governmental organizations would have an important role to play in that process, as would the technical advisory services provided by the United Nations. In that connection, he welcomed the financial assistance provided by certain countries for the funding of consultancy services in the human rights field.

63. Mr. Solt (Hungary) resumed the chair.

STATEMENT BY THE MINISTER OF JUSTICE OF RWANDA

64. The CHAIRMAN welcomed the Minister of Justice of Rwanda and invited him to address the Commission.

65. Mr. NGIRUMPATSE (Rwanda) said that the destructive war imposed on Rwanda since 1 October 1990, from and with the support of Uganda, was still under way despite the many initiatives taken by his Government to bring it to an end. Indeed, the insurgents had transformed their war of aggression into guerrilla warfare and had, since November 1991, been carrying out continual raids across the border from their sanctuary in Uganda.

66. Anxious to see a rapid return of peace in the region and the country, his Government had tried, through bilateral contacts with Uganda and through regional cooperation, to put an end to the bloodshed. A bilateral summit meeting with Uganda in Zanzibar had not produced a positive outcome. The Dar-es-Salaam summit conference on 19 February 1991 had been devoted to the issue of Rwandese refugees. It had produced some promising results that should resolve that problem definitively. The mediation of President Mobuto of Zaire had led to the conclusion on 29 March 1991 of a ceasefire agreement between the Government of Rwanda and the Patriotic Front of Rwanda (FPR).

67. However, with the connivance of the Ugandan army, the insurgents had repeatedly broken the ceasefire agreement. After an initial complaint submitted at the Organization of African Unity Summit in June 1991, a regional summit meeting had been convened which had called upon the two parties to the conflict to agree to an immediate ceasefire and to enter into a political dialogue under the auspices of a mediator.

68. The first round of talks in the political dialogue had achieved nothing tangible and had shown that the FPR was not interested in ending the war. His Government had therefore entered into contact once again with the protector of the insurgents, the Ugandan Government. The only positive element to come out of that meeting had been an agreement between the two parties that France could send an observer mission to report on violations of the border between the two countries, a mission which was still carrying out its duties.

69. There had been a further meeting between the heads of State of Rwanda and Uganda on 19 January 1992 in Tanzania, at which it was agreed to take several measures to find a peaceful and lasting solution to the war. Unfortunately, not long after that meeting, a large-scale attack had been launched, and the Government of Uganda, in contravention of the agreement between the two Governments, had refused a Rwandese delegation access to the border areas from which the attack must have been launched.

70. The steps taken by his Government gave ample proof of its firm desire, and that of the people of Rwanda, to end the war. However, since the aggressors had shown such bad faith, he called upon the international community to join in its efforts to put a final end to the conflict. The war was not limited to the battlefield. The rebels had been attempting to tarnish the image of Rwanda since the beginning of the war, particularly with regard to respect for human rights, making accusations which had been taken up by some ill-informed non-governmental organizations. Despite such allegations, his Government respected human rights since Rwanda was a State subject to the rule of law.

71. In that connection, it was noteworthy that, in April 1991, his Government had decided, in a spirit of national reconciliation, to free all persons who had been detained as a result of the war. In addition, some major legislative measures proclaiming an amnesty had also been promulgated. One such measure would enable persons who had committed certain offences to participate in the consolidation of democracy on the occasion of the restoration of pluralism in Rwanda. Another declared an amnesty for refugees guilty of certain offences. He wished to point out that the authorities of the Republic of Rwanda had not limited themselves to granting amnesties or pardons but had also ordered the reinstatement of civil servants and private-sector employees who had been accused or found guilty of offences.

72. As for the allegations concerning extrajudicial executions, it was important to recognize that, since the outbreak of the war, Rwanda had experienced interethnic tensions which had sometimes degenerated into bloody conflicts. Where conflict had broken out, it was due to panic in the population caused by the proximity of atrocities committed by the insurgents. In other places, interethnic disturbances had followed provocation by Tutsi who asserted not only that the victory of the rebels was certain, but also that it would be followed by the extermination of the Hutu.

73. Fortunately, wherever disturbances had broken out, the authorities had taken appropriate action to restore order, and the Government Procurator's Office had carried out judicial enquiries without favour to the security forces or the officials in charge of administration and security. The measures adopted had largely ensured that the disturbances did not recur, although it was not always easy to prevent isolated incidents of violence on the part of individuals or groups.

74. It should be emphasized that all allegations of excesses were properly investigated by the authorities. The lists submitted by opponents of the Government to the international organizations regarding persons who had supposedly disappeared should be treated with caution. Some of the persons listed were in fact alive, others had never existed, and yet others had been amnestied. Reports of massacres ought also to be regarded with scepticism.

75. Nevertheless, incidents of communal strife did occur, and were exacerbated by the war that had been in progress since October 1990. In the commune of Murambi in particular, where the population was composed equally of Hutu and Tutsi, factional rivalry had long existed: the Tutsi, however, and their young people in particular, had been in contact with the FPR and had accordingly stepped up their acts of provocation against the Hutu. It was the

policy of the FPR to encourage such disturbances but, in the above-mentioned incident, the authorities had succeeded in restoring calm, and only one person had been killed.

76. Other unfounded allegations related to violations of the freedom of the press. He was able to state categorically that the country's Constitution affirmed the right of the individual to express his opinions in every way, except where such expression led to the commission of an offence. A recent press law had reaffirmed that right. In one case which had arisen the previous year, an editor had been sentenced to four years' imprisonment, but that was because he had been found guilty of flagrantly insulting the Head of State. At his trial, he had been represented by two Belgian lawyers of his own choosing. The Government's policy in such matters was that freedom of the press was to be encouraged, since the process of democratization could not develop in the absence of a well-informed public opinion. That process had reached an advanced stage prior to the outbreak of the war in 1990, and had continued thereafter, despite the hostilities.

77. A Political Parties Act had been adopted, and 12 parties meeting the legal requirements had been duly registered. A transitional period would lead in the near future to the holding of democratic elections at the communal, legislative and presidential levels. If those guilty of aggression against Rwanda truly believed in democracy, they would heed the numerous appeals addressed to them and lay down their arms: democracy could be achieved only through the ballot box and not by force of arms.

78. One question which should be of concern to the international community in general and to human rights bodies in particular was that of the kidnappings and assassinations carried out by the FPR. In many cases, and especially in the area of the Ugandan frontier, the FPR had attacked villages, massacring women and children and the elderly and destroying their homes: young men of military age were often, if not brutally killed, forcibly conscripted into the ranks of the insurgents.

79. As far as killings were concerned, the available statistics were incomplete, but they indicated that more than 1,600 civilians had been savagely murdered by the FPR, and many others seriously wounded. In addition, over 120,000 people had been forced to leave their homes to seek refuge in improvised camps, where they were living in appalling conditions. The evidence showed that the forces of the FPR did not respect the Geneva Convention relative to the Protection of Civilian Persons in Time of War.

80. As he had already stated, the Regional Conference held at Dar-es-Salaam in February 1991 to discuss the refugee problem had achieved some important results. Rwanda had undertaken to accept, with the assistance of the international community, all Rwandese refugees who opted for peaceful repatriation, while the countries sheltering the refugees had agreed to settle those who chose to remain and to grant them citizenship in accordance with their domestic legisation.

81. The Conference had also entrusted to the Organization of African Unity and the United Nations High Commissoner for Refugees the task of preparing a Plan of Action to implement the decisions it had taken. The Plan of Action

envisaged the holding of a donor conference, but the proposed conference had had to be postponed from late 1991 to February 1992, and was liable to be postponed yet again. Those delays in implementing the Plan of Action were attributable to the actions of the FPR and its sympathizers in linking the refugee problem to the problem of the war they themselves had instigated.

82. For its part, his Government called on OAU and UNHCR and all the countries concerned to do their utmost to ensure that the Plan of Action was prepared as soon as possible, thus enabling the donor conference to take place without further delay. It was also taking steps to prepare for the repatriation of the refugees by identifying resettlement zones and by promulgating a general amnesty. With a view to achieving a lasting national reconciliation, 5,871 detainees convicted by the State Security Court of complicity with the FPR had already been released.

83. In conclusion, he said that, as an expression of its continuing concern for human rights, his Government had prepared two bills relating to the establishment of a new Supreme Court of the Judiciary and a Bar Association: both bills would shortly be examined by Parliament. It was also, in conjunction with embassies based in Rwanda, organizing seminars and lectures on human rights.

84. The World Conference on Human Rights, to be held in 1993, would greatly contribute to greater public awareness of the issues involved, but his delegation had unfortunately been unable to participate in the first meeting of the Preparatory Committee for the Conference. He appealed, therefore, to its organizers to enable the developing countries, particularly the least developed ones, to take an active part in all subsequent meetings of the Preparatory Committee.

The meeting rose at 1.05 p.m.